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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,449	07/25/2006	Willem Auke Westerhof	NL040093US1	1223

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
PO BOX 3001  
BRIARCLIFF MANOR, NY 10510-8001

EXAMINER
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DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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03/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/587,449	<b>Applicant(s)</b> WESTERHOF ET AL.	
	<b>Examiner</b> Clark F. Dexter	<b>Art Unit</b> 3724	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-9 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-9 and 11-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 25, 2008 has been entered.

### ***Claim Objections***

2. Claims 1, 3-9 and 11-13 are objected to because of the following informalities:

In claim 1, line 13, in claim 9, line 10, and in claim 13, line 14, the recitation of "another" is not sufficiently clear, particularly in view of the recitation of "two guiding members", and it seems that it should be changed to --the other--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112, 2<sup>nd</sup> paragraph***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, lines 9-10, the recitation "the adjustable guiding member" lacks positive antecedent basis.

***Claim Rejections - 35 USC § 102/103***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35

U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1, 3-6, 9 and 11-13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Aviza, PG Publication 2005/0126007.

Aviza discloses a razor apparatus/assembly in various forms with every structural limitation of the claimed invention including a blade assembly comprising two guiding members (e.g., the structure at the lead and trailing portions of the blade assembly) and one or more blades (e.g., 18) disposed between the two guiding members, a grip portion (e.g., 14), wherein at least one of the guiding members is an adjustable guiding member (e.g., 24) that is adjustable in a perpendicular direction (e.g., see Figs 7 and 11), and wherein the adjustable guiding member is a lubricating member (e.g., see paragraph 0104), wherein the other of the two guiding members is a skin stretching member (e.g., as appears to be indicated by the protruding structure in front of the blades in Figures 7 and 11) and wherein the adjustable guiding member is positioned to contact a portion of the skin after the one or two blades (e.g., see Figs. 7 and 11).

Regarding claims 11-13, wherein the adjustable guide member is adjustable to a distance of greater than 2 mm above said plane as claimed, particularly depending on the scale to which the invention is made.

In the alternative, if it is argued that Aviza does not explicit teach or disclose such a feature, it would have been obvious to one having ordinary skill in the art to provide such a feature based on normal and obvious manufacturing and engineering

considerations such as the scale of the apparatus/assembly and/or the manner in which the apparatus/assembly is intended to be used.

In the alternative, if it is argued that Aviza lacks an explicit disclosure that the other guiding member is a skin stretching member. However, it is old and well known in the art to provide such skin stretching members in front of the blade(s) for various well known benefits including obtaining desired shaving characteristics. Aviza discloses a skin stretching member in such a position in other embodiments, namely those of Figures 2, 5, 6 and 8. Therefore, it would have been obvious to one having ordinary skill in the art to provide the combination of the skin stretching member in front of the blade(s) and the lubricating member behind the blade(s) to gain the well known benefits including that described above.

### ***Claim Rejections - 35 USC § 103***

8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aviza, PG Publication 2005/0126007.

Aviza discloses a razor apparatus/assembly with almost every structural limitation of the claimed invention including the structure set forth in claim 8 (e.g., which reads on the structure of at least some of the disclosed embodiments including the cooperating threaded structures shown in Fig. 9A.), but lacks a spring means for pushing the guiding means into the frame. However, the Examiner takes Official notice that such spring means are old and well known in the art and provide various well known benefits including to provide a desired biasing action to facilitate movement of a

component. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a spring means on the razor of Aviza to gain the well known benefits including that described above.

### ***Response to Arguments***

9. Applicant's arguments filed November 25, 2008 have been fully considered but they are not persuasive. It is respectfully submitted that the prior art teaches and/or suggests the claimed subject matter as described in further detail above, and thus the prior art rejections must be maintained.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/  
Primary Examiner, Art Unit 3724**

cfd  
March 2, 2009